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June 15, 2019

VIA ECF

The Honorable Nicholas G. Garaufis
United States District Judge
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Keith Raniere, 18 Cr. 204 (NGG)

Dear Judge Garaufis:

Defendant Keith Raniere respectfully submits this letter to supplement the arguments at the charge conference this morning, June 15, 2019.

1. Proposed Language for Bias

Raniere submits that the Court should include the following language within Item 10 “Deciding What to Believe” after subsection (h):

How much you choose to believe a witness may also be influenced by the witness’s bias. Does the witness have a relationship with the Government or the Defendant that may affect how he or she testified? Does the witness have some incentive, loyalty, or motive that might cause him or her to shade the truth? Does the witness have some bias, prejudice, or hostility that may cause the witness to give you something other than a completely accurate account of the facts he or she testified to?¹

¹ Adapted from United States v. Buck, 13 Cr. 282 (JSR), Charge Transcript at 2022 (S.D.N.Y. Nov. 17, 2017) (Rakoff, J.).

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2. Proposed Sand Instruction

Raniere submits that the Court should include the Sand instruction on page 45 of the draft charge rather than the Boyle instruction the government proposed. The Sand instruction reads as follows:

If you find that this was a group of people characterized by each of the following three things: (1) a common purpose, (2) an ongoing formal or informal organization, and (3) personnel who function as a continuing unit, then you may find that an enterprise existed.²

This is included on page 13 of Raniere's Proposed Jury Charge (Dkt. 692-1).

We continue to look for guidance from other courts on the definition of "thing of value," and will write to the Court as soon as possible if we propose any alternative language. Thank you for your consideration.

Respectfully submitted,

/s/

Marc A. Agnifilo, Esq., *Of Counsel*
Teny R. Geragos, Esq.

cc: Counsel for the government (via ECF)

² Sand, Modern Federal Jury Instructions – Criminal, Instr. 52-20.